

Senate File 529 - Introduced

SENATE FILE 529
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 1223)

A BILL FOR

1 An Act relating to assisted reproduction fraud, and providing
2 penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714I.1 Short title.

2 This chapter shall be known and may be cited as the "*Fraud*
3 *in Assisted Reproduction Act*".

4 Sec. 2. NEW SECTION. 714I.2 Definitions.

5 For purposes of this chapter, unless the context otherwise
6 requires:

7 1. "*Assisted reproduction*" means a method of causing
8 pregnancy other than sexual intercourse.

9 2. "*Donor*" means an individual who provides gametes
10 intended for use in assisted reproduction, whether or not for
11 consideration.

12 3. "*Gamete*" means a sperm, an egg, or any part of a sperm
13 or an egg.

14 4. "*Health care professional*" means a person who is
15 licensed, certified, or otherwise authorized or permitted by
16 the law of this state to administer health care in the ordinary
17 course of business or in the practice of a profession.

18 5. "*Health facility*" means a hospital, clinic, sperm bank,
19 laboratory, or other health care institution involved in the
20 assisted reproduction process.

21 6. "*Human reproductive material*" means a human gamete or a
22 human organism at any stage of development from fertilized ovum
23 to embryo.

24 7. "*Patient*" means a person who has received or is receiving
25 health services from a health care professional.

26 8. "*Physician*" means an individual licensed under chapter
27 148.

28 Sec. 3. NEW SECTION. 714I.3 Prohibited practices and acts.

29 1. A person shall not engage in a practice or act the
30 person knows or reasonably should have known provides false
31 information to a patient related to an assisted reproduction
32 procedure or treatment including false information relating to
33 any of the following:

34 a. The human reproductive material used or provided for
35 assisted reproduction.

1 *b.* The identity of a donor of human reproductive material
2 used or provided for assisted reproduction including but not
3 limited to the donor's name, birthdate, or address at the time
4 of donation.

5 *c.* A donor's medical history including but not limited to an
6 illness of the donor at the time of donation, any past illness
7 of the donor, or the social, genetic, or family history of the
8 donor.

9 2. A physician shall not use or provide a patient with human
10 reproductive material for assisted reproduction other than that
11 to which the patient consented in writing.

12 3. A health facility shall not provide a patient with
13 human reproductive material for assisted reproduction other
14 than that agreed to in writing between the patient and the
15 health facility or that is not provided in compliance with the
16 agreement between the donor and the health facility.

17 4. A person who violates this section is guilty of a class
18 "C" felony.

19 5. A violation of this section by a physician, health care
20 professional, or health facility is grounds for denial of an
21 application for, denial of renewal of, or revocation of any
22 license, permit, certification, or any other form of permission
23 required to practice a profession or establish, conduct, or
24 maintain a facility regulated by the state.

25 Sec. 4. NEW SECTION. 714I.4 Private right of action —
26 damages — statute of limitations.

27 1. Any of the following persons may bring a cause of action
28 for compensatory and punitive damages against any person that
29 engaged in a prohibited practice or act in violation of this
30 chapter:

31 *a.* The patient who gives birth to a child conceived through
32 assisted reproduction as a result of a violation of this
33 chapter.

34 *b.* The spouse of a patient at the time the patient utilized
35 assisted reproduction services, when the patient gives birth

1 to a child conceived through assisted reproduction as a result
2 of a violation of this chapter.

3 *c.* A child conceived through assisted reproduction as a
4 result of a violation of this chapter.

5 *d.* A donor whose human reproductive material resulted in the
6 birth of a child conceived through assisted reproduction as a
7 result of a violation of this chapter.

8 2. Each child born as a result of a violation of this
9 chapter constitutes the basis for a separate cause of action.

10 3. In an action brought under this chapter, the court may
11 award the prevailing party court costs and reasonable attorney
12 fees.

13 4. An action brought pursuant to this chapter shall be
14 brought within three years after the discovery of a violation
15 of this chapter by the person bringing the action.

16 Sec. 5. Section 709.4, Code 2021, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 1A. A physician commits sexual abuse
19 in the third degree when the physician violates chapter
20 714I by implanting the physician's own human reproductive
21 material through assisted reproduction without the patient's
22 prior knowledge and written consent. For the purposes of
23 this subsection, "*assisted reproduction*", "*human reproductive*
24 *material*", "*patient*", and "*physician*" mean the same as defined
25 in section 714I.2.

EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill creates the "Fraud in Assisted Reproduction Act".

30 The bill provides definitions for the purposes of the bill
31 including "assisted reproduction", "donor", "gamete", "health
32 care professional", "health facility", "human reproductive
33 material", "patient", and "physician".

34 The bill prohibits a person from engaging in a practice
35 or act the person knows or reasonably should have known

1 provides false information to a patient related to an assisted
2 reproduction procedure or treatment.

3 The bill prohibits a physician from using or providing
4 human reproductive material for assisted reproduction other
5 than that to which the patient consented in writing and
6 prohibits a health facility from providing a patient with
7 human reproductive material for assisted reproduction other
8 than that agreed to in writing between the patient and the
9 health facility or that is not provided in compliance with the
10 agreement between the donor and the health facility.

11 A person who violates these provisions of the bill is guilty
12 of a class "C" felony. A class "C" felony is punishable by
13 confinement for no more than 10 years and a fine of at least
14 \$1,370 but not more than \$13,660.

15 Additionally, a violation of these provisions of the bill
16 by a physician, health care professional, or health facility
17 is grounds for denial of an application for, denial of renewal
18 of, or revocation of any license, permit, certification, or any
19 other form of permission required to practice a profession or
20 to establish, conduct, or maintain a facility regulated by the
21 state.

22 The bill provides for a private cause of action to be brought
23 for compensatory and punitive damages against any person that
24 engaged in a prohibited practice or act in violation of the
25 bill. The cause of action may be brought by the patient who
26 gives birth to a child conceived through assisted reproduction
27 as a result of a violation of the bill; the spouse of a patient
28 at the time the patient utilized assisted reproduction services
29 when the patient gives birth to a child conceived through
30 assisted reproduction as a result of a violation of the bill; a
31 child conceived through assisted reproduction as a result of
32 a violation of the bill; or a donor whose human reproductive
33 material resulted in the birth of a child conceived through
34 assisted reproduction as a result of a violation of the
35 bill. Each child born as a result of a violation of the bill

1 constitutes the basis for a separate cause of action. The
2 bill provides for the payment of court costs and reasonable
3 attorney fees for the prevailing party in an action brought
4 under the bill and requires that an action brought pursuant to
5 the bill be brought within three years after the discovery of a
6 violation of the bill by the person bringing the action.

7 The bill also provides that a physician commits sexual abuse
8 in the third degree when the physician violates the bill by
9 implanting the physician's own human reproductive material
10 through assisted reproduction without the patient's prior
11 knowledge and written consent. Sexual abuse in the third
12 degree is also a class "C" felony.